

August 5, 2015

Shelby County Schools



Conflict of Interest Disclosures

I wish to disclose the following potential conflicts of interest:

- Type of Potential Conflict
 - Representative of professional organizations
- Details of Potential Conflict
 - Tennessee Delegate to the National Association of School Psychologists
 - Chair of the Ethics Committee of the Tennessee Association of School Psychologists
- This talk presents material that is related to one or more of these potential conflicts, and the following objective references are provided as support for this lecture:
 - nasponline.org
 - tasponline.org

Professional Ethics and Law in the Practice of Psychology In the Schools

State of Tennessee Laws &
Regulations Governing the
Practice of Psychology and the
APA Ethical Code of Conduct &
the NASP Principles for
Professional Ethics

Summary

- This workshop will compare ethical and legal considerations relative to the APA and NASP codes of ethics and jurisprudence compliance.
- The presentation will focus on applying clinical ethics and legal considerations in providing psychological services.

Summary

- Issues in compliance with ethical codes, state laws, rules and regulations, and federal regulations will be explored.
- Ethical decision making processes, documentation, confidentiality, and consent will be discussed.
- Components of ethical practice will be identified in relation to service provision.

Learning Objectives

- Recognize essential ethical principles and legal considerations in the provision of services.
- Apply clinical decision making processes using relevant ethical guidelines.
- Identify high risk issues in psychological practice in the schools.
- Meet 3 hour ethics training requirement of BOE and NCSP.

The Presenter

- **Mark W. Sigler, Ph.D., NCSP**
- Licensed Senior Psychological Examiner
Health Service Provider
- Licensed Professional Counselor
Mental Health Service Provider
- School Psychologist
Licensed Professional School Service Personnel

Code of Ethics

- American Psychological Association Ethical Principles of Psychologists and Code of Conduct (2002)
- 2010 Amendments - APA

Code of Ethics

- National Association of School Psychologists Principals for Professional Ethics (2010)

Professional Conduct

Do No Harm



APA

- **3.04 Avoiding Harm**
Psychologists take reasonable steps to avoid harming their clients/ patients, students, supervisees, research participants, organizational clients, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable.

Professional Conduct

NASP

- I. RESPECTING THE DIGNITY AND RIGHTS OF ALL PERSONS
- School psychologists engage only in professional practices that maintain the dignity of all with whom they work.

NASP



NATIONAL ASSOCIATION OF
School Psychologists

Helping Children Thrive • In School • At Home • In Life

Professional Conduct

TPA



APA

- **3.08 Exploitative Relationships**

Psychologists do not exploit persons over whom they have supervisory, evaluative, or other authority such as clients/patients, students, supervisees, research participants, and employees.

Professional Conduct

NASP



- Principle I.1. Autonomy and Self-Determination (Consent and Assent)
- School psychologists respect the right of persons to participate in decisions affecting their own welfare.

Professional Conduct

- I hereby authorize Mark W. Sigler, Ph.D. to perform the following treatment, psychological intervention, clinical assessment, or psychological evaluation:
 - The nature and extent of the intended clinical service has been explained to me in detail. I have been advised by Dr. Sigler of possible alternatives, if any, probable consequences if I remain untreated, risks and possible complications of the proposed service.
 - I acknowledge that no guarantee or assurance has been made as to the result that may be obtained.
- **3.10 Informed Consent**
 - (a) When psychologists conduct research or provide assessment, therapy, counseling, or consulting services in person or via electronic transmission or other forms of communication, they obtain the informed consent of the individual or individuals using language that is

Professional Conduct



- reasonably understandable to that person or persons except when conducting such activities without consent is mandated by law or governmental regulation or as otherwise provided in this Ethics Code.

Professional Conduct

- Principle I.2. Privacy and Confidentiality
- School psychologists respect the right of persons to choose for themselves whether to disclose their private thoughts, feelings, beliefs, and behaviors.
- Standard 4: Privacy and Confidentiality
- **4.01 Maintaining Confidentiality**
Psychologists have a primary obligation and take reasonable precautions to protect confidential information obtained through or stored in any medium, recognizing that the extent and limits of confidentiality may be regulated by law or established by institutional rules or professional or scientific relationship.

Professional Conduct



- **4.04 Minimizing Intrusions on Privacy**
(a) Psychologists include in written and oral reports and consultations, only information germane to the purpose for which the communication is made.

Professional Conduct

- Standard 1.2.2
- School psychologists minimize intrusions on privacy. They do not seek or store private information about clients that is not needed in the provision of services.
- **4.04 Minimizing Intrusions on Privacy**
(b) Psychologists discuss confidential information obtained in their work only for appropriate scientific or professional purposes and only with persons clearly concerned with such matters.

Professional Conduct

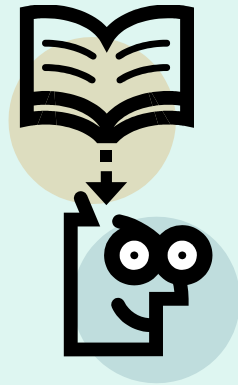


- **3.01 Unfair Discrimination**
In their work-related activities, psychologists do not engage in unfair discrimination based on age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, socioeconomic status, or any basis proscribed by law.

Professional Conduct

- **Principle I.3. Fairness and Justice**
- In their words and actions, school psychologists promote fairness and justice. They use their expertise to cultivate school climates that are safe and welcoming to all persons regardless of actual or perceived characteristics, including race, ethnicity, color, religion, ancestry, national origin, immigration status, socioeconomic status, primary language, gender, sexual orientation, gender identity, gender expression, disability, or any other distinguishing characteristics

Training and Expertise



- **Standard 2:
Competence**
- **2.01 Boundaries of
Competence**
(a) Psychologists provide services, teach, and conduct research with populations and in areas only within the boundaries of their competence, based on their education, training, supervised experience, consultation, study, or professional experience.

Training and Expertise



- **2.03 Maintaining Competence**
Psychologists undertake ongoing efforts to develop and maintain their competence.
- **2.04 Bases for Scientific and Professional Judgments**
Psychologists' work is based upon established scientific and professional knowledge of the discipline. (See also Standards [2.01e, Boundaries of Competence](#), and [10.01b, Informed Consent to Therapy](#).)

Training and Expertise

- **II. PROFESSIONAL COMPETENCE AND RESPONSIBILITY**
- Beneficence, or responsible caring, means that the school psychologist acts to benefit others. To do this, school psychologists must practice within the boundaries of their competence, use scientific knowledge from psychology and education to help clients and others make informed choices, and accept responsibility for their work.
- Principle II.2. Accepting Responsibility for Actions
- School psychologists accept responsibility for their professional work, monitor the effectiveness of their services, and work to correct ineffective recommendations.

Training and Expertise

- **2.05 Delegation of Work to Others**
Psychologists who delegate work to employees, supervisees, or research or teaching assistants or who use the services of others, such as interpreters, take reasonable steps to (1) avoid delegating such work to persons who have a multiple relationship with those being served that would likely lead to exploitation or loss of objectivity; (2) authorize only those responsibilities that such persons can be expected to perform competently on the basis of their education, training, or experience, either independently or with the level of supervision being provided; and (3) see that such persons perform these services competently.



Training and Expertise

7.06 Assessing Student and Supervisee Performance

- (a) In academic and supervisory relationships, psychologists establish a timely and specific process for providing feedback to students and supervisees. Information regarding the process is provided to the student at the beginning of supervision.
- (b) Psychologists evaluate students and supervisees on the basis of their actual performance on relevant and established program requirements.

Training and Expertise

- Continuing education and professional growth activities
- Refrain from going outside boundaries of discipline or training.
- Seek sufficient training and supervision for new competency areas



Training and Expertise

8 Fold Path to Enlightenment



APA

- **2.01 Boundaries of Competence**
- b) Where scientific or professional knowledge in the discipline of psychology establishes that an understanding of factors associated with age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, or socioeconomic status is essential for effective implementation of their services or research, psychologists have or obtain the training, experience, consultation, or supervision necessary to ensure the competence of their services, or they make appropriate referrals, except as provided in Standard [2.02, Providing Services in Emergencies](#).

Training and Expertise

- Standard II.1.4
- School psychologists engage in continuing professional development. They remain current regarding developments in research, training, and professional practices that benefit children, families, and schools. They also understand that professional skill development beyond that of the novice practitioner requires well-planned continuing professional development and professional supervision.

Training and Expertise

2.02 Providing Services in Emergencies

In emergencies, when psychologists provide services to individuals for whom other mental health services are not available and for which psychologists have not obtained the necessary training, psychologists may provide such services in order to ensure that services are not denied. The services are discontinued as soon as the emergency has ended or appropriate services are available.

Training and Expertise

- Standard I.1.2
- It is ethically permissible to provide psychological assistance without parent notice or consent in emergency situations or if there is reason to believe a student may pose a danger to others; is at risk for self-harm; or is in danger of injury, exploitation, or maltreatment.
- When a student who is a minor self-refers for assistance, it is ethically permissible to provide

Training and Expertise

- psychological assistance without parent notice or consent for one or several meetings to establish the nature and degree of the need for services and assure the child is safe and not in danger. It is ethically permissible to provide services to mature minors without parent consent where allowed by state law and school district policy. However, if the student is not old enough to receive school psychological assistance independent of parent consent, the school psychologist obtains parent consent to provide continuing assistance to the student beyond the preliminary meetings or refers the student to alternative sources of assistance that do not require parent notice or consent.

Board of Examiners

- **TENNESSEE BOARD OF PSYCHOLOGY BOARD MEMBERS**

- Pamela M. Auble, Ph.D. Member Practicing Psychologist 6/30/2014
- George Bercaw, SLPE Chair Psychological Examiner 6/30/2015
- Timothy A. Urbin Ph.D. Member Academic 6/30/2019
- J Trevor Milliron, Ph.D. Vice-Chair Academic/Practicing 6/30/2016
- Cindy Boshears Member Consumer 6/30/2017
- Mark Loftis, SLPE Member Psychological Examiner 6/30/2016
- Janice Pazar, Ph.D. Member Practicing Psychologist 6/30/2018
- David C. Mathis, Ed.D. Member Practicing Psychologist 6/30/2015
- Rebecca Joslin, Ph.D. Member Licensed Psychologist 6/30/2015
- (Vacant Seat for Practicing Psychologist)

- **BOARD STAFF**

- Teddy Wilkins, Unit Director
- Charles Custer, Board Administrator
- Jennifer Putnam, Office of General Counsel

Continuing Education

- **Board of Examiners in Psychology**
- 40 hours in the 2 calendar years prior to renewing license:
- Type I: 9 hours of APA approved training
- Type II: Training by a psychological organization or university with a graduate psychology program
- 18 hours of Type I / Type II training

Continuing Education

- Nine (9) CE hours of the forty (40) hours required in subparagraph (b) must be received from a Type I CE program as provided by this rule. All continuing education hours obtained via the internet must be from a Type I CE program.

Continuing Education

- Type I CE is primarily psychological in nature or is relevant to the science and practice of psychology. Type I CE offerings must have a pre-assigned number of CE credit hours and provide documentation indicating the course was APA-approved. Type I CE may be fulfilled via internet. No more than twenty (20) hours shall be obtained from an internet source.

Continuing Education

- Nine (9) CE hours of the forty (40) hours required in subparagraph (b) must be received from Type I or Type II CE programs as provided by this rule.
- Twenty-two (22) CE hours of the forty (40) hours required in subparagraph (b) must be received from Type I, II, or III programs as provided by this rule.

Continuing Education

- Type II CE is primarily psychological in nature or is relevant to the science and practice of psychology.
- (b) Type II CE offerings must provide documentation of attendance and must have a preassigned number of CE credit hours under the auspices of any of the following:
 - 1. A regional psychological association

Continuing Education

- 2. A state psychological association
- 3. Any recognized and relevant credentialing national, regional or state professional body
- 4. An institution housing an APA-approved internship program.
- 5. A nationally recognized accredited college or university with a health-related professional training program.

Continuing Education

- 6. Graduate courses in an APA-approved graduate psychology program. (To be assigned fifteen [15] Type II CE units per semester hour)
- 7. Passing the ABPP exam. (To be assigned twenty [20] hours of Type II CE credit)
- 18 hours of Type I / Type II training

Continuing Education

- Type III: (22 hours may be Type I, II, or III)
- 1. clinical peer consultation groups; or
- 2. research presentations and convention workshops that incorporate multiple, brief presentations
- with many different learning objectives that are less amenable to a single evaluation; or
- 3. clinical supervision provided to students, interns, and post-doctoral fellows in accredited programs on a basis that is voluntary, uncompensated, and external to that program. A maximum of ten (10) CE hours per two (2) calendar years (January 1 - December 31) is allowed.

Continuing Education

- 1. Meetings - Registration and attendance at meetings of recognized professional psychology organizations (local, state, regional, national or international).
- 2. Teaching and presentations.
- 3. Publications
- 4. Workshops, seminars or courses - Relevant non-accredited psychology workshops, seminars or courses shall be assigned a maximum of ten (10) hours of Type III CE credit per year.

Continuing Education

- 5. Serving as a member of the Board shall be assigned a maximum of ten (10) hours of Type III CE credit per year.
- 6. Serving as a member of an oral examining committee for the Board shall be assigned one (1) hour of Type III CE credit per exam. **No longer applicable!**
- Multi-Media courses:

Continuing Education

- Multi-Media courses may include courses utilizing:
 - 1. The Internet
 - 2. Closed circuit television
 - 3. Satellite broadcasts
 - 4. Correspondence courses
 - 5. Videotapes
 - 6. CD-ROM
 - 7. DVD
 - 8. Teleconferencing
 - 9. Videoconferencing
 - 10. Distance learning

Continuing Education

- (f) Experiences unacceptable as continuing education include, but are not limited to, administrative activities, psychotherapy, personal growth or enrichment.
- Three (3) CE hours of Type I or Type II shall pertain to:
 - 1. Tennessee Code Annotated, Title 63, Chapter 11; and
 - 2. Official Compilation, Rules and Regulations of the State of Tennessee, Chapters 1180-01, 1180-02, 1180-03 and 1180-04; and
 - 3. The current version of the “Ethical Standards” which are part of the “Ethical Principles of Psychologists and Code of Conduct” published by the American Psychological Association (A.P.A.).

Continuing Education

- Three (3) CE hours shall pertain to cultural diversity as specifically noted in the title, description of objectives, or curriculum of the presentation, symposium, workshop, seminar, course or activity. Cultural diversity includes aspects of identity stemming from age, disability, gender, race/ethnicity, religious/spiritual orientation, sexual orientation, socioeconomic status, and other cultural dimensions. The topic of the presentation, symposium, workshop, seminar, course or activity need not be on cultural diversity, but one of the objectives or descriptions of the topics covered, shall clearly indicate attention to cultural diversity. These hours shall be Type I or Type II.

Continuing Education

- Licensees with disabilities or other hardships severely restricting travel away from home may petition the Board in writing to request exceptions to the manner in which they accumulate CE credits.
- (6) Documentation. Each licensee shall maintain documentation of CE hours for five (5) years and should prepare a summary report with documentation yearly. Documentation of completed CE hours must be produced for inspection and verification if requested in writing by the Board. The Board shall not maintain CE files.

Continuing Education

- You must keep independent proof (e.g., a certificate) of all continuing education activities being claimed. If you are claiming Type I hours, APA approval of the activity must be documented. For Type II the documentation must meet those standards (e.g., provided by a psychological organization, etc.). Type III documentation may be more varied, for example minutes from a peer group meeting.

Continuing Education

- Non-compliant practitioners are subject to board discipline which includes a fine of \$100 and make up the delinquent hours. The action taken against the practitioner is reportable on the Department of Health website on the monthly disciplinary action report.

Continuing Education

- When it is discovered by Board or its staff that a licensee has failed to obtain Continuing Education credits in a timely manner, the licensee shall have three (3) months from the date that appears on the deficiency letter to obtain the required Continuing Education, and submit proof of completion to the Board staff.
- If the licensee fails to comply by obtaining the deficient Continuing Education hours within the three (3) month time period, the matter will be forwarded to the Tennessee Department of Health, Office of General Counsel, at which time the licensee will be assessed a one hundred dollar (\$100.00) civil penalty and have one year to obtain the appropriate hours.

Continuing Education

- The one hundred dollar (\$100.00) civil penalty and an agreement to obtain the appropriate number of hours will be contained in the form of an Agreed Citation which is an offer of settlement to pay the civil penalty and obtain the hours within one year. The licensee will have the option to accept the Agreed Citation, waiving the right to appear before the Board, or the licensee shall have the right to a contested case before the Board.

Continuing Education

- Should the licensee fail to pay the civil penalty and obtain the appropriate number of Continuing Education hours through an agreed citation, the Tennessee Department of Health, Office of General Counsel will file a formal disciplinary action against the licensee which will give the right to the licensee to appear before the Board and could result in additional penalties, costs, and disciplinary action against the license, up to, and including revocation.

Administrative Report

- October 2, 2014
- Mr. Custer reported that there are currently 1,381 active licensed psychologists, 464 active licensed psychological examiners/senior psychological examiners and 34 active certified psychological assistants.
- From June 10, 2014 to September 30, 2014, one hundred twenty seven (127) psychologists, thirty three (33) psychological examiners, and no certified psychological assistant renewed their license online.

• **Review of Policy Statements (10/02/2014)**

- The Board reviewed the existing policy statements to decide if they need to update, keep, or delete them.
- Board Policy Statement: Dr. Loftis made a motion, seconded by Dr. Urbin, to remove this policy statement from the website. The motion carried.
- Criminal Background Check: The Board decided as a group to keep this policy.
- Ethics & Jurisprudence Policy: Dr. Auble made a motion, seconded by Dr. Loftis, to remove this policy statement from the website. The motion carried.
- Proof of Employment Eligibility: Dr. Loftis made a motion, seconded by Dr. Auble, to remove this policy statement from the website. The motion carried.
- Failure to Obtain Continuing Education: Dr. Loftis made a motion, seconded by Dr. Auble, to keep the policy statement, but clean it up to be in line with the actual processes in place. The motion carried.
- Working on an Expired License: The Board decided as a group to keep this policy.
- NPI Number: Dr. Loftis made a motion, seconded by Dr. Mathis, to remove this policy statement from the website. The motion carried.
- Active Military Duty Renewals: The Board decided to revisit this policy at a later meeting, in order to compare to the new statute.
- Application Deadline: The Board decided as a group to keep this policy.

BOE 06/12/2014

- The Professional Privilege Tax has been revised so that the Department of Revenue will notify the Board administrative offices of tax delinquency. The requirement would be that if there is a tax delinquency, the practitioner will be unable to renew their license. The Department of Revenue will provide ninety (90) days for payment before notifying the Health Related Boards of the delinquency.

BOE 06/12/2014

- Senate Bill 2479, which allows tele-psychology. It also adds forensic psychology and parent coordination to the Psychology Practice Act. As a side note, the World Health Association also allows tele-psychology to be billed to insurance companies. This went into effect on July 1, 2014. Ms. Putnam will present some rule ideas regarding tele-psychology at the next meeting.

BOE 06/12/2014

- A committee has been set up by law for Behavioral Analysts (BA), and it will be under the umbrella of the Psychology Board. There will be 5 committee members; 3 licensed BA's, 1 Assistant BA, and 1 consumer member. The elected chair of the committee, which would be a licensed BA, would be appointed as an ex-officio member of the Board of Examiners in Psychology, and have voting rights on the Board. This would also change the quorum and voting requirements, as there would now need to be 6 members present to constitute a quorum; and all 6 members would need to agree to have a motion passed. In addition, the size of the Board would increase from 9 members to 10 members.
- The Board expressed concerns regarding a BA being a voting member of the Board, especially when dealing with issuing licenses, file reviews, and other issues pertaining specifically to psychologists.

Rule-making Hearing 09/5/13

- “Face-to-face” means (a) can see one’s face and (b) occurring in real time via video conferencing equipment and/or technology. No more than seventy-five (75) percent of supervision can be obtained through video conferencing.

Rule-making Hearing 09/5/13

- Rule 1180-4-.03(8)(a) is deleted and amended to read: One (1) of the required three (3) letters must be from a licensed Psychologist with HSP designation, or if the endorser is from another jurisdiction, HSP licensed equivalent Psychologist. The other letters may be from Psychologists or licensed Senior Psychological Examiners.

Scope of Practice

- The scope of practice of a Certified Psychological Assistant is prescribed and limited by Tennessee Code Annotated, Title 63, Chapter 11 and the rules set forth in this chapter and chapter 1180-1.
- **1180-4-.01 SCOPE OF PRACTICE.**

Scope of Practice

- Certified Psychological Assistants shall limit their practices to the use of those techniques, and to providing services to those populations, for which they have formal education, formal professional training and supervised experience, and for which they hold certification. Because no education, professional training, supervised experience and practicum in psychotherapy or other intervention activities is prescribed in the statute, the scope of practice for certified psychological assistants is specifically restricted to psychological assessment, psychological testing, and related activities, with no certified psychological assistant allowed to engage in psychotherapy or any other form of therapeutic intervention.

Scope of Practice

- The supervised practice of a Certified Psychological Assistant, may include, but is not limited to:
- (a) Participates in psychological evaluations and clinical assessments of patients/clients utilizing a wide variety of assessment techniques and instruments thereby providing psychological data;

Scope of Practice

- (b) Administers psychological testing, monitors mental status of patients and participates in treatment teams which evaluate, develop, implement, and document patient's treatment progress;
- (c) Assists with classification information on patients and recommendations on service needs, identification and recommendation of services for the handicapped, and crisis intervention;

Scope of Practice

- (d) Screens patients for appropriate treatments;
- (e) Provides educational/information services for patients;
- (f) Participates in both basic and applied research endeavors and contributes to the basic fund of psychological knowledge;
- (g) May assist in psychological screening of employees; and
- (h) May supervise/direct the work of clerical/related staff in the performance of their duties as assigned.

Scope of Practice

- Certified Psychological Assistants, who have had appropriate education, training and supervised practice experience, may render to individuals or to the public for remuneration any service involving the application of recognized principles, methods, and procedures of the science and profession of psychology as defined in paragraph three (3) above and only under the direct employment and qualified supervision of a Psychologist with HSP designation or a Senior Psychological Examiner; or the employment of a community mental health center or state governmental agency and the qualified supervision of a Psychologist with HSP designation or a Senior Psychological Examiner.

Supervision

- Supervision must meet minimum standards and a supervisor of record must be made known to the Board. Supervision conducted via face-to-face video conferencing equipment and/or technology is acceptable, assuming compliance with subparagraphs (4)(a) through (4)(g) of this rule. “Face-to-face” means (a) can see one’s face and (b) occurring in real time via video conferencing equipment and/or technology. No more than seventy-five (75) percent of supervision can be obtained through video conferencing.

Supervision

- 1. Before supervision of Certified Psychological Assistants may occur, a Board supplied form shall be submitted to the Board's administrative office. Such form shall be signed by both the supervisor and the supervisee, and shall list (i) those Certified Psychological Assistants whom the Psychologist or Senior Psychological Examiner supervises and for whom he or she is the supervisor of record; or (ii) a Certified Psychological Assistant must list his/her primary supervisor(s) if engaging in activities requiring supervision.

Supervision

- Qualified supervision requires that a licensed Psychologist or Senior Psychological Examiner, qualified by experience and training to practice the overall supervised activity or activities, provide supervision on a regular and frequent basis. The supervising Psychologist for Certified Psychological Assistants delivering health services must also be designated as a HSP.

Supervision

- (c) The supervising Psychologist or Senior Psychological Examiner shall limit the number of supervisees in order to assure an adequate ratio of supervision hours to practice hours consistent with professional standards and guidelines which insure the welfare of the supervisees and their clients.

Supervision



- Specific case monitoring and skill training requires significant supervisory contact and must be in addition to overall administrative supervision.

Supervision

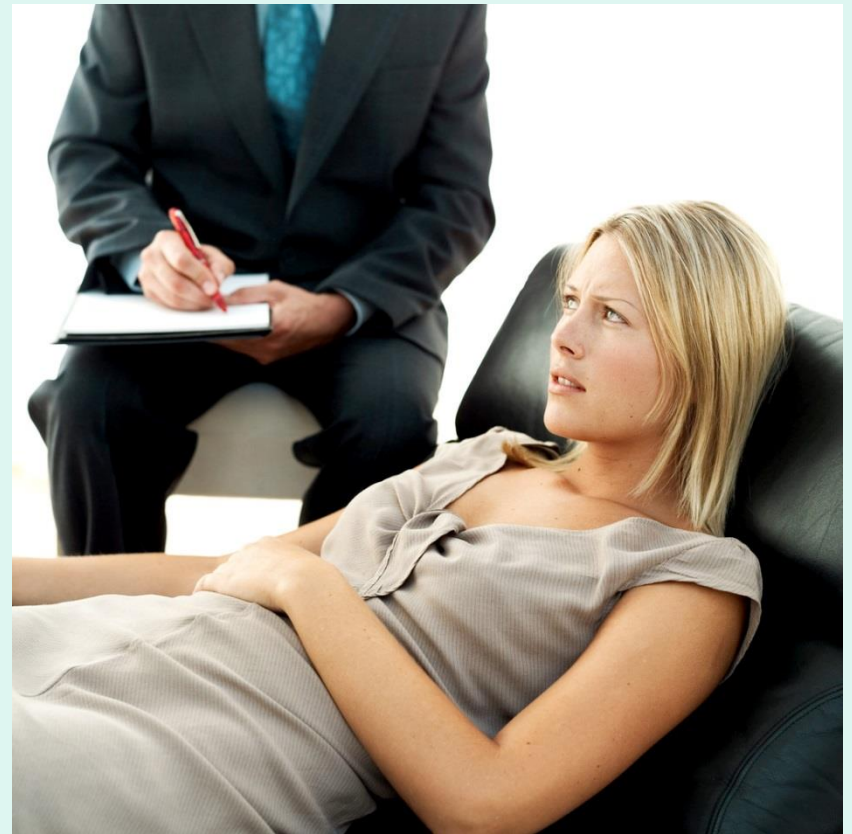
- 1. Supervision is to be conducted primarily on a one-on-one basis and shall be in addition to any group seminar or group consultations which are also deemed appropriate. Thus, supervision will require considerable one-on-one contact and time with respect to each client. Records of the supervision process must be maintained by the supervisor covering the number of hours of supervision activities, the number and duration of one-on-one supervisory meetings and documentation of clients discussed at each supervisory session.

Supervision

Supervision

- 2. A supervisor, at the time of supervision, must not be in a dual relationship with the supervisee, e.g., be a spouse, other close relative or therapist.

Dual Relationship



Supervision

The supervising Psychologist or Senior Psychological Examiner has responsibility to require that the Certified Psychological Assistant complete continuing education to maintain continued competence.

In all cases the specific terms of the supervisory arrangement are the responsibility of the supervising Psychologist or Senior Psychological Examiner upon whom it is incumbent to assure supervisory time and service delivery. Likewise, it is the responsibility of the supervisee to obtain supervision. The supervisor must consider the education, training, experience, ongoing performance and level of licensure of the supervisee. The arrangements for supervision must be agreed to by both the supervisor and the supervisee. The supervising Psychologist or Senior Psychological Examiner of record must protect the welfare of the client and assure compliance with Tennessee law and professional ethics. (Requirements for Psychologists receiving supervision as part of the experience requirement for designation as a HSP are contained in Rule 1180-02-.02 (2)(d).)

Scope of Practice

- **TCA 63-11-202.**
- A person practices as a “psychological examiner” within the meaning of this chapter when the person claims to be a psychological examiner and/or renders to individuals or to the public health-related clinical activities or services involving the application of recognized principles, methods and procedures of the science and profession of psychology, such as interviewing or administering and interpreting tests of mental abilities, aptitudes, interests and personality characteristics, for such purposes as psychological evaluation or for educational or vocational selection, guidance or placement. The psychological examiner shall practice the following health-related clinical activities or services only under qualified supervision: overall personality appraisal or classification, personality counseling, psychotherapy, behavior analysis or personality readjustment techniques.

Supervision

- The standard for supervision of newly licensed individuals with a provisional license as a Psychologist with HSP designation and for Psychological Examiners is one (1) hour per week.
- The standard of supervision for experienced (supervised for at least five [5] years) Psychological Examiners is that it shall occur no less than monthly. If an experienced Psychological Examiner changes supervisors, the experienced Psychological Examiner may follow the monthly supervision standard if agreed to by the Senior Psychological Examiner supervisor and the experienced Psychological Examiner in question

Scope of Practice

- A person practices as a senior psychological examiner within the meaning of this chapter when the person claims to be a senior psychological examiner and/or renders to individuals or to the public for remuneration any service involving the application of recognized principles, methods and procedures of the science and profession of psychology. A senior psychological examiner, while possessing a different scope of practice than a psychologist, shall be considered a health service provider and thereby able to engage in these designated areas of health-related psychological practice without supervision:

Scope of Practice

- **(1) Interviewing or administering and interpreting tests of mental abilities, aptitudes, interests and personality characteristics for such purposes as psychological evaluation or for educational or vocational selection guidance or placement;**
 - (2) Overall personality appraisal or classification, psychological testing, projective testing, evaluations for disability or vocational purposes;**
 - (3) Diagnosis of nervous and mental disorders;**
 - (4) Personality counseling;**
 - (5) Psychotherapy;**
 - (6) Behavior analysis;**
 - (7) Personality readjustment techniques; or**
 - (8) Supervision of a psychological examiner or psychological assistant.**

Scope of Practice

- **TENNESSEE BOARD OF EXAMINERS IN PSYCHOLOGY**
- **POLICY ON NATIONAL PROVIDER IDENTIFICATION NUMBER (NPI)**
- The use of a National Provider Identification Number (NPI) under the category of “Psychologist” by a Senior Psychological Examiner or Psychological Examiner for purposes of insurance reimbursement will not constitute advertising or use of title in violation of the Board’s law or rules.
- Adopted by the Board of Examiners in Psychology the 29th day of August, 2007.
- ***NPI Number: Dr. Loftis made a motion, seconded by Dr. Mathis, to remove this policy statement from the website. The motion carried. (2nd day of October, 2014)***

Scope of Practice

- **TCA 63-11-203**
- **Practice of psychologist” means the observation, description, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures, for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. Practice of psychologist includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling,**

Scope of Practice

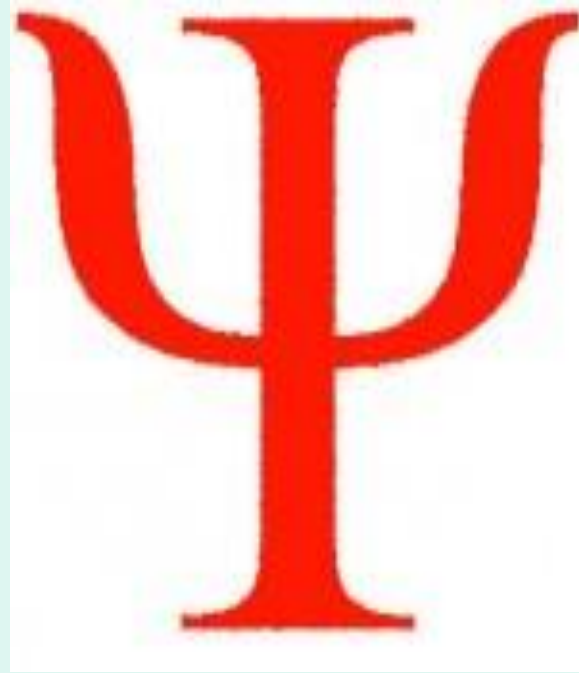
- **psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; psychological diagnosis and treatment of mental, emotional and nervous disorders or disabilities, alcoholism and substance abuse, disorders of habit or conduct, as well as of the psychological aspects of physical illness, accident, injury, or disability; case management and utilization review of psychological services; and psychoeducational evaluation, therapy, remediation, and consultation. Psychological services may be rendered to individuals, families, groups, and the public. “Practice of psychologist” is construed within the meaning of this definition without regard to whether payment is received for services rendered.**

Scope of Practice

- **b)** A person represents that person to be a psychologist if that person uses any title or description of services incorporating the words “psychology,” “psychological,” or “psychologist,” or if such person possesses expert qualification in any area of psychology, or if that person offers to the public or renders to individuals or to groups of individuals services defined as the practice of psychology in this chapter.

Scope of Practice

- **Public Chapter 809**
This act deletes superfluous language in the existing practice act statute. It adds forensic evaluation and parent coordination to the scope of practice. Further, this bill authorizes the board to promulgate rules regarding the practice of telepsychology.



Scope of Practice

- Generally speaking, the differences in "scope of practice" between Psychologists and LSPE/LPE involve two broad categories: (1) actual differences in licensing law and (2) other sections of TCA and insurance reimbursement that permit Psychologists to do some things LSPEs and LPEs don't have the statutory authority to do.
- **Turning first to those in licensing law:**
- Generally speaking, the more PhDs and LSPEs do traditional assessment, psychotherapy, and supervision, the more their scopes are the same. The "practice of psychology" lists a boatload of different things under that umbrella. Some of them require highly specific training: most forensic work (competency to stand trial, insanity defense, civil commitment, etc.), neuropsych, behavioral medicine, sleep work, etc. [Some LSPE's may have some training]

Scope of Practice

- Fed disability highlights a difference in scope. LSPEs can do Medicaid (TnCare) services per the waiver obtained by TnCare but for nearly all federal programs and laws, there is a difference in the scope of practice between PhDs and LSPEs (feds used that difference in their disability services decision). Medicare is a federal program. It pays "Clinical Psychologists" under the 1991 federal definition of "clinical psychologist" per Medicare which is specifically defined as a doctoral level health service provider in clinical, counseling or school psychology. LSPEs are not included in this definition.
- Other places where scope of practice differs are in other sections of law. Examples:

- (1) civil commitment: 2 MDs or 1 MD and 1 Ph.D. Clinical Psychologist. LSPEs can do it as part of Crisis Team commitment but not independent in their offices;
- (2) judicial commitment: Ph.D only statute
- (3) insanity defense: Ph.D. only by statute
- (4) used to be guardianship by Ph.D. only but there was a bill in the legislature to add LSPEs to it --don't know if it passed.
- (5) PhDs on law to eliminate no competition clauses
- (6) Ph.Ds pay professional privilege tax; SLPEs don't
- (7) Rules of Evidence/Admitting Expert Testimony; Ph.Ds in all courts, SLPEs not in all
- (8) Fed A&D evaluations, risk assessment, security clearances per Federal statutes

- In Tennessee, Prof. Counselors statute or rules/regs says a LSPE can supervise them; so it would be fine for LSPEs to supervise LPEs, Cert. Assistants and Prof. Counselors. TN Law does not give them authority to supervise A & D folks so Lance advises not to overextend their supervision scope. Why? An A & D person commits suicide, suit follows, and LSPE "caught" supervising a professional not specifically listed in statute or rules or regs or some national guideline (APA). Probably would lose the suit, etc.

Scope of Practice

- **63-11-205. Use of identifying terms.**
- **(2)** Persons licensed by the state board of education in areas of school psychology, school psychologist or school psychological services worker and employed as such in the department of education or in any public or nonpublic elementary or secondary school are not required to be licensed under this chapter while performing in the course of their employment. Nothing in this chapter shall be construed so as to apply to persons licensed by the state board of education in areas of school psychology, school psychologist or school psychological services worker who are employed as such in the department of education or in any public or nonpublic elementary or secondary school while performing in the course of their employment.

Scope of Practice

- **b)** Nothing in this section shall be construed as permitting such persons to offer their services to any other persons or organizations as consultants or to accept remuneration for any psychological services other than that of their institutional salaries unless they have been licensed or certified under this chapter.

APA Model Practice Act

- The prior version of this Model Act included an exemption for the use of the terms school psychologist or certified school psychologist for all individuals credentialed by the state agency regulating practice in public schools. This version acknowledges the authority of the relevant state education agency to credential individuals to provide school psychological services in settings under their purview and continues to restrict those individuals to practice within those settings. Additionally, the title so conferred, which must include the word “school”, is to be used solely while engaged in employment within those settings.

APA Model Practice Act

- *Nothing in this Act shall be construed to prevent (cite relevant state education authority or statutory provisions) from credentialing individuals to provide school psychological services in those settings that are under the purview of the state education agency. Such individuals shall be restricted in their practice and the use of the title so conferred, which must include the word "school", to employment within those settings.*

ASPPB MODEL ACT FOR LICENSURE and REGISTRATION OF PSYCHOLOGISTS

- **F. MASTER'S LICENSURE**
- *IT IS RECOGNIZED THAT SOME JURISDICTIONS LICENSE INDIVIDUALS TO PRACTICE WITH A MASTER'S DEGREE IN PSYCHOLOGY, AND THAT SUCH PRACTICE MAY BE WITH OR WITHOUT SUPERVISION, DEPENDING ON THE JURISDICTION. FOR THOSE JURISDICTIONS, THE FOLLOWING LANGUAGE FOR MASTER'S LEVEL LICENSURE IS RECOMMENDED:*
- SUBJECT TO VI F (1) AND F(2), NOTHING IN THIS ACT PROHIBITS THE BOARD FROM LICENSING INDIVIDUALS FOR THE PRACTICE OF PSYCHOLOGY WHO HAVE A MASTER'S DEGREE IN PSYCHOLOGY ACCEPTABLE TO THE BOARD AND WHO HAVE MET ANY ADDITIONAL REQUIREMENTS AS SPECIFIED IN THE REGULATIONS.

ASPPB MODEL ACT FOR LICENSURE and REGISTRATION OF PSYCHOLOGISTS

- **D. SCHOOL PSYCHOLOGISTS:** NOTHING IN THIS ACT SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF THE (STATE OR
- PROVINCIAL) AGENCY OR DEPARTMENT RESPONSIBLE FOR REGULATING PUBLIC EDUCATION TO CREDENTIAL INDIVIDUALS TO PROVIDE PSYCHOLOGICAL SERVICES AS LONG AS INDIVIDUALS SO CREDENTIALLED ARE LIMITED TO PRACTICE WITHIN SETTINGS UNDER THE AUTHORITY AND PURVIEW OF THE (STATE OR PROVINCIAL) EDUCATION AGENCY. SUCH INDIVIDUALS MAY USE THE TITLE “SCHOOL PSYCHOLOGIST” OR ANOTHER TITLE INCLUDING THE TERM PSYCHOLOGY OR PSYCHOLOGICAL (E.G., SCHOOL PSYCHOLOGY SPECIALIST) BUT MAY NOT USE THE TITLE “PSYCHOLOGICAL ASSOCIATE” OR “LICENSED PSYCHOLOGIST” OR ANY OTHER EQUIVALENT TERM AS DEFINED IN III- M AND III – T OF THIS ACT. INDIVIDUALS SO CREDENTIALLED MAY ONLY PROVIDE PSYCHOLOGICAL SERVICES AS DEFINED IN THIS ACT IN SETTINGS UNDER THE AUTHORITY AND PURVIEW OF THE (STATE OR PROVINCIAL) EDUCATION AGENCY AND ONLY AS EMPLOYEES OF SUCH SETTINGS AND NOT AS INDEPENDENT CONTRACTORS TO SUCH SETTINGS.

VA Psychology

- **18VAC125-20-43. Requirements for licensure as a school psychologist-limited.**
- A. Every applicant for licensure as a school psychologist-limited shall submit to the board:
 - 1. A copy of a current license issued by the Board of Education showing an endorsement in psychology.
 - 2. An official transcript showing completion of a master's degree in psychology.
 - 3. A completed Employment Verification Form of current employment by a school system under the Virginia Department of Education.

VA Psychology

- "Applied psychologist" means an individual licensed to practice applied psychology.
- "Practice of applied psychology" means application of the principles and methods of psychology to improvement of organizational function, personnel selection and evaluation, program planning and implementation, individual motivation, development and behavioral adjustment, as well as consultation on teaching and research.

VA Psychology

- "Clinical psychologist" means an individual licensed to practice clinical psychology.
- "Practice of clinical psychology" includes, but is not limited to:
 1. "Testing and measuring" which consists of the psychological evaluation or assessment of personal characteristics such as intelligence, abilities, interests, aptitudes, achievements, motives, personality dynamics, psychoeducational processes, neuropsychological functioning, or other psychological attributes of individuals or groups.
 2. "Diagnosis and treatment of mental and emotional disorders" which consists of the appropriate diagnosis of mental disorders according to standards of the profession and the ordering or providing of treatments according to need. Treatment includes providing counseling, psychotherapy, marital/family therapy, group therapy, behavior therapy, psychoanalysis, hypnosis, biofeedback, and other psychological interventions with the objective of modification of perception, adjustment, attitudes, feelings, values, self-concept, personality or personal goals, the treatment of alcoholism and substance abuse, disorders of habit or conduct, as well as of the psychological aspects of physical illness, pain, injury or disability.
 3. "Psychological consulting" which consists of interpreting or reporting on scientific theory or research in psychology, rendering expert psychological or clinical psychological opinion, evaluation, or engaging in applied psychological research, program or organizational development, administration, supervision or evaluation of psychological services.

VA Psychology

- "Certified sex offender treatment provider" means a person who is certified to provide treatment to sex offenders and who provides such services in accordance with the provisions of §§ 54.1-2924.1, 54.1-3005, 54.1-3505, 54.1-3611, and 54.1-3705 and the regulations promulgated pursuant to these provisions.

Assessment

NASP

- **Principle II.3. Responsible Assessment and Intervention Practices**
School psychologists maintain the highest standard for responsible professional practices in educational and psychological assessment and direct and indirect interventions.

APA

- Standard 9: Assessment
- **9.02 Use of Assessments**
(a) Psychologists administer, adapt, score, interpret, or use assessment techniques, interviews, tests, or instruments in a manner and for purposes that are appropriate in light of the research on or evidence of the usefulness and proper application of the techniques.

Assessment

9.02 Use of Assessments

(b) Psychologists use assessment instruments whose validity and reliability have been established for use with members of the population tested. When such validity or reliability has not been established, psychologists describe the strengths and limitations of test results and interpretation.

(c) Psychologists use assessment methods that are appropriate to an individual's language preference and competence, unless the use of an alternative language is relevant to the assessment issues.

Assessment

- IDEIA
- Regulations: Part [300](#) / [D](#) / [300.308](#) / b
- [\(b\)](#) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

Assessment

- **TDOE Disability Eligibility Standards**
- Evaluation of Other Health Impairment shall include the following:
- a. The evaluation report used for initial eligibility shall be current within one year and include the following:
 - (1) an evaluation from a licensed health services provider* that includes:
 - (a) medical assessment and documentation of the student' s health;
 - (b) any diagnoses and prognoses of the child's health impairments;
 - (c) information, as applicable, regarding medications; and
 - (d) special health care procedures, special diet and/or activity restrictions.
- *TCA and the Board of Examiners in Psychology clearly give health services provider designated psychologists the legal and ethical authority to assess, diagnose, and treat ADHD. A psychological evaluation does not replace the need for a medical evaluation as described in (1) (a).
- *(Includes Licensed Psychologist, HSP & Licensed Senior Psychological Examiner, HSP)*

Interventions

**Neither offer nor accept
payment for referrals**



APA

- **3.11 Psychological Services Delivered to or Through Organizations**

(a) Psychologists delivering services to or through organizations provide information beforehand to clients and when appropriate those directly affected by the services about (1) the nature and objectives of the services, (2) the intended recipients, (3) which of the individuals are clients, (4) the relationship the psychologist will have with each person and the organization, (5) the probable uses of services provided and information obtained, (6) who will have access to the information, and (7) limits of confidentiality. As soon as feasible, they provide information about the results and conclusions of such services to appropriate persons.

Assessment & Interventions

NASP

- Principle II.3.
Responsible Assessment and Intervention Practices
- School psychologists maintain the highest standard for responsible professional practices in educational and psychological assessment and direct and indirect interventions.

NASP

- Standard I.3.4
- School psychologists strive to ensure that all children have equal opportunity to participate in and benefit from school programs and that all students and families have access to and can benefit from school psychological services.

Interventions

**How does that make you
feel?**



APA

- **10.04 Providing Therapy to Those Served by Others**
In deciding whether to offer or provide services to those already receiving mental health services elsewhere, psychologists carefully consider the treatment issues and the potential client's/patient's welfare. Psychologists discuss these issues with the client/patient or another legally authorized person on behalf of the client/patient in order to minimize the risk of confusion and conflict, consult with the other service providers when appropriate, and proceed with caution and sensitivity to the therapeutic issues.

Personal Problems and Conflicts

2.06 Personal Problems and Conflicts

(a) Psychologists refrain from initiating an activity when they know or should know that there is a substantial likelihood that their personal problems will prevent them from performing their work-related activities in a competent manner.

(b) When psychologists become aware of personal problems that may interfere with their performing work-related duties adequately, they take appropriate measures, such as obtaining professional consultation or assistance, and determine whether they should limit, suspend, or terminate their work-related duties. (See also Standard [10.10, Terminating Therapy](#).)

Personal Problems and Conflicts

- Standard II.1.3
- School psychologists refrain from any activity in which their personal problems may interfere with professional effectiveness. They seek assistance when personal problems threaten to compromise their professional effectiveness (also see III.4.2).

Supervisory Relationships

- Principle IV.4. Contributing to the Profession by Mentoring, Teaching, and Supervision
 - As part of their obligation to students, schools, society, and their profession, school psychologists mentor less experienced practitioners and graduate students to assure high quality services, and they serve as role models for sound ethical and professional practices and decision making.
- **APA: 7.06 Assessing Student and Supervisee Performance**
 - (a) In academic and supervisory relationships, psychologists establish a timely and specific process for providing feedback to students and supervisees. Information regarding the process is provided to the student at the beginning of supervision.
 - (b) Psychologists evaluate students and supervisees on the basis of their actual performance on relevant and established program requirements.

Supervisory Relationships

- **7.07 Sexual Relationships with Students and Supervisees**

Psychologists do not engage in sexual relationships with students or supervisees who are in their department, agency, or training center or over whom psychologists have or are likely to have evaluative authority.

- **7.04 Student Disclosure of Personal Information**
Psychologists do not require students or supervisees to disclose personal information in course- or program-related activities, either orally or in writing, regarding sexual history, history of abuse and neglect, psychological treatment, and relationships with parents, peers, and spouses or significant others except if . . .

Supervisory Relationships

- (1) the program or training facility has clearly identified this requirement in its admissions and program materials or (2) the information is necessary to evaluate or obtain assistance for students whose personal problems could reasonably be judged to be preventing them from performing their training- or professionally related activities in a competent manner or posing a threat to the students or others.

Client Relationships

- III. HONESTY AND INTEGRITY IN PROFESSIONAL RELATIONSHIPS
- To foster and maintain trust, school psychologists must be faithful to the truth and adhere to their professional promises. They are forthright about their qualifications, competencies, and roles; work in full cooperation with other professional disciplines to meet the needs of students and families; and avoid multiple relationships that diminish their professional effectiveness.

- **APA: 3.09**
Cooperation with Other Professionals
When indicated and professionally appropriate, psychologists cooperate with other professionals in order to serve their clients/patients effectively and appropriately. (See also Standard [4.05, Disclosures.](#))



Client Relationships

- Principle III.4. Multiple Relationships and Conflicts of Interest School psychologists avoid multiple relationships and conflicts of interest that diminish their professional effectiveness.
- Standard III.4.4
- School psychologists are cautious about business and other relationships with clients that could interfere with professional judgment and effectiveness or potentially result in exploitation of a client.

Client Relationships

- **3.05 Multiple Relationships**

(a) A multiple relationship occurs when a psychologist is in a professional role with a person and (1) at the same time is in another role with the same person, (2) at the same time is in a relationship with a person closely associated with or related to the person with whom the psychologist has the professional relationship, or (3) promises to enter into another relationship in the future with the person or a person closely associated with or related to the person.
- A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists.
- Multiple relationships that would not reasonably be expected to cause impairment or risk exploitation or harm are not unethical.

Client Relationships

- (b) If a psychologist finds that, due to unforeseen factors, a potentially harmful multiple relationship has arisen, the psychologist takes reasonable steps to resolve it with due regard for the best interests of the affected person and maximal compliance with the Ethics Code.
- (c) When psychologists are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, at the outset they clarify role expectations and the extent of confidentiality and thereafter as changes occur. (See also Standards [3.04, Avoiding Harm](#), and [3.07, Third-Party Requests for Services](#).)

Client Relationships

- Principle II.4 Responsible School-Based Record Keeping
- School psychologists safeguard the privacy of school psychological records and ensure parent access to the records of their own children.
- **6.02 Maintenance, Dissemination, and Disposal of Confidential Records of Professional and Scientific Work**
 - (a) Psychologists maintain confidentiality in creating, storing, accessing, transferring, and disposing of records under their control, whether these are written, automated, or in any other medium. (See also Standards [4.01, Maintaining Confidentiality](#), and [6.01, Documentation of Professional and Scientific Work and Maintenance of Records](#).)

Psychological Records

- Content – All patient records, or summaries thereof, produced in the course of the practice of psychology for all patients shall include all information and documentation listed in T.C.A. § 63-2-101 (c) (2) [*Medical Records*] and such additional information that is necessary to insure that a subsequent reviewing or treating psychologist, senior psychological examiner or psychological examiner can both ascertain the basis for the diagnosis, treatment plan and outcomes, and provide continuity of care for the patient.

Psychological Records

- Patient records include, but are not limited to:
- (i) the name of the patient and other identifying information;
- (ii) the presenting problem(s) or purpose of diagnosis;
- (iii) the fee arrangement;
- (iv) the date and substance of each billed or service-count contact or service;
- (v) any test results or other evaluative results obtained and any basic test data from which they were derived (not including protocols);
- (vi) notation and results of formal consults with other providers;
- (vii) a copy of all test and other evaluative reports prepared as a component of the professional relationship; and
- (viii) any releases executed by the patient.

Psychological Records

- **OLD RULE (NOW DELETED)**
- 2. Not included in patient records are:
 - (i) test data – raw and scaled scores, client/patient responses to test questions or stimuli, and notes and recordings concerning client/patient statements and behavior during an examination.
 - (ii) test materials – manuals, instruments, protocols, and test questions or stimuli.
 - (iii) psychotherapy notes – notes recorded (in any medium) by a psychologist, senior psychological examiner or psychological examiner, who is designated as a health service provider as defined in Rule 1180-1-.01, that document or analyze the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's patient record.

Psychological Records

NEW RULE

2. Not included in patient records are test materials, such as manuals, instruments, protocols, and test questions or stimuli. Although not included in patient records, test materials such as manuals, instruments, protocols, and test questions or stimuli must be retained in accordance with the “Ethical Principles of Psychologists and Code of Conduct” published by the American Psychological Association.

Psychological Records

- (e) Retention of Patient Records – Patient records shall be retained for a period of not less than seven (7) years from the last clinical contact between the patient and the psychologist, senior psychological examiner or psychological examiner, or their professionally certified supervisees except for the following:
 - 1. Records for incompetent patients shall be retained indefinitely.
 - 2. Records of minors shall be retained for a period of not less than one (1) year after the minor reaches the age of majority or seven (7) years from the date of the last clinical contact with the patient, whichever is longer.
 - 3. Notwithstanding the foregoing, no patient record involving services which are currently under dispute shall be destroyed until the dispute is resolved.

Psychological Records

- **1180-01-.13 MANDATORY RELEASE OF PATIENT RECORDS.**
- (1) Within ten (10) working days of receipt of a written request from a patient or the patient's authorized representative, an individual licensed by this Board shall provide a complete copy of the patient's records, or summary of such records which were maintained by the provider.

Psychological Records

- Rule 1180-01-.13, July, 2014 (Revised) 28
- (2) A licensee shall be entitled to charge reasonable costs, as outlined by T.C.A. § 63-2-102, for the reproduction of records to a third party not to exceed twenty dollars (\$20.00) for reports or records five (5) pages or less in length and fifty cents (\$.50) per page for each page copied after the first five (5) pages for copying and mailing patient records.

Client Relationships

- Principle III.2. Forthright Explanation of Professional Services, Roles, and Priorities
- School psychologists are candid about the nature and scope of their services.
- **5.01 Avoidance of False or Deceptive Statements**
 - (a) Public statements include but are not limited to paid or unpaid advertising, product endorsements, grant applications, licensing applications, other credentialing applications, brochures, printed matter, directory listings, personal resumes or curricula vitae, or comments for use in media such as print or electronic transmission, statements in legal proceedings, lectures and public oral presentations, and published materials. Psychologists do not knowingly make public statements that are false, deceptive, or fraudulent concerning their research, practice, or other work activities or those of persons or organizations with which they are affiliated.

- (b) Psychologists do not make false, deceptive, or fraudulent statements concerning (1) their training, experience, or competence; (2) their academic degrees; (3) their credentials; (4) their institutional or association affiliations; (5) their services; (6) the scientific or clinical basis for, or results or degree of success of, their services; (7) their fees; or (8) their publications or research findings.
- (c) Psychologists claim degrees as credentials for their health services only if those degrees (1) were earned from a regionally accredited educational institution or (2) were the basis for psychology licensure by the state in which they practice.

Informed Consent

- Whose consent is required for the release of medical information, including mental health information and alcohol and substance abuse records?
- The authority to release records is the same regardless of the type of license held by the practitioner or facility. It is relevant as to what type of information is being released: Mental health; substance abuse; or medical.

Informed Consent

- For children, the consent of the child may be required depending on the type of information being released.
- If a parent has lost parental rights, they would not be entitled to access to the medical records; however, a non-custodial parent has the right to copies of records, if the child's consent is not required.

Informed Consent

- Tennessee follows the Rule of Sevens in determining whether a child has the capacity to consent to medical treatment:
- A child 7 years or younger has no capacity
- 7-14 rebuttable presumption of no capacity
- 14-21 rebuttable presumption of capacity
- Therefore, this applies to medical records

Informed Consent

- TCA 33-3-103: Release of mental health information requires consent of an individual if 16 years of age or older.
- Tennessee does not require the consent of the parent or guardian to provide alcohol or substance abuse treatment, so consent of the individual is required.

Informed Consent

- Summary:
- Medical records: 14 years or older, patient must provide consent
- Mental health records: 16 years or older, patient must provide consent
- Substance Abuse records: If patient consented to treatment, then must provide consent to release records related to that treatment

Informed Consent

- Meaning of Informed?
- Informed consent requires that the client/subject understands the thing to which they are consenting.
- Limits of confidentiality
- Giving a “heads up”
- Readability of Client’s Rights
- HIPPA/FERPA

Informed Consent

- [Sec. 300.625\(b\)](#) Under the regulations for FERPA in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at age 18.
- [Sec. 300.611\(b\)](#) Education records means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).

Informed Consent

- Sec. 99.30 Under what conditions is prior consent required to disclose information? (a) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in Sec. 99.31. (b) The written consent must: (1) Specify the records that may be disclosed; (2) State the purpose of the disclosure; and (3) Identify the party or class of parties to whom the disclosure may be made. (c) When a disclosure is made under paragraph (a) of this section: (1) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and (2) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

Informed Consent

- FERPA
- PART 99--FAMILY EDUCATIONAL RIGHTS AND PRIVACY--Table of Contents Subpart D--May an Educational Agency or Institution Disclose Personally Identifiable Information From Education Records? Sec. 99.31 Under what conditions is prior consent not required to disclose information? (a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by Sec. 99.30 if the disclosure meets one or more of the following conditions:

Informed Consent

- 15 exceptions to informed consent, including: School personnel; state and federal agencies; other schools; financial aid; organizations conducting studies; accrediting organizations; subpoena; legal action taken by school against parent or student; health or safety emergency; and violation of school rules. (All with limitations and requirements attached).

Informed Consent

- HIPPA
- **Permitted PHI Disclosures Without Authorization**
- The Privacy Rule permits a covered entity to use and disclose PHI, with certain limits and protections, for TPO activities [45 CFR § 164.506]. Certain other permitted uses and disclosures for which authorization is not required follow. Additional requirements and conditions apply to these disclosures. The Privacy Rule text and OCR guidance should be consulted for a full understanding of the following:

Informed Consent

- Required by law. Disclosures of PHI are permitted when required by other laws, whether federal, tribal, state, or local.
- Public health. PHI can be disclosed to public health authorities and their authorized agents for public health purposes including but not limited to public health surveillance, investigations, and interventions.
- Health research. A covered entity can use or disclose PHI for research without authorization under certain conditions, including 1) if it obtains documentation of a waiver from an institutional review board (IRB) or a privacy board, according to a series of considerations; 2) for activities preparatory to research; and 3) for research on a decedent's information.

Informed Consent

- Abuse, neglect, or domestic violence. PHI may be disclosed to report abuse, neglect, or domestic violence under specified circumstances.
- Law enforcement. Covered entities may, under specified conditions, disclose PHI to law enforcement officials pursuant to a court order, subpoena, or other legal order, to help identify and locate a suspect, fugitive, or missing person; to provide information related to a victim of a crime or a death that may have resulted from a crime, or to report a crime.
- Judicial and administrative proceedings. A covered entity may disclose PHI in the course of a judicial or administrative proceeding under specified circumstances.
- Cadaveric organ, eye, or tissue donation purposes. Organ-procurement agencies may use PHI for the purposes of facilitating transplant.

Informed Consent

- Oversight. Covered entities may usually disclose PHI to a health oversight agency for oversight activities authorized by law.
- Worker's compensation. The Privacy Rule permits disclosure of work-related health information as authorized by, and to the extent necessary to comply with, workers' compensation programs.

MARK W. SIGLER, PH.D., LSPE, LPC
161 INDIAN CREEK ROAD
HOHENWALD, TN 38462

AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INFORMATION

RE: _____
(NAME) (DATE OF BIRTH) (SOCIAL SECURITY NO.)

(ADDRESS) (CITY, STATE, ZIP CODE)

I understand that this release of information is intended to allow me to provide my informed consent for an exception to my confidentiality and the protection of my privacy. I hereby authorize Mark W. Sigler, Ph.D., LSPE, LPC to RELEASE the following specific information between the dates of _____ & _____ and/or REQUEST the following specific information between the dates of _____ & _____:

- | RELEASE | REQUEST |
|---------|--|
| _____ | _____ 1) Medical history, examination, laboratory tests and treatment reports |
| _____ | _____ 2) Psychological test reports and/or self report scales |
| _____ | _____ 3) Psychiatric evaluation reports |
| _____ | _____ 4) Social history data including personal & family history, and psychosocial/initial assessment |
| _____ | _____ 5) Summary of previous mental health treatment |
| _____ | _____ 6) Periodic reports of current treatment progress, including follow-up session notes and discharge summary |
| _____ | _____ 7) Hospital admission & discharge summaries |
| _____ | _____ 8) Treatment plan and/or care plan |
| _____ | _____ 9) Medication review record |
| _____ | _____ 10) Special Education records |
| _____ | _____ 11) Psychosexual Evaluation reports and information related to sexual abuse/offense |
| _____ | _____ 12) Clinical progress notes |
| _____ | _____ 13) Specify: _____ |

From to Mark W. Sigler, Ph.D., LSPE, LPC from to:

(NAME OF INDIVIDUAL OR AGENCY)

(ADDRESS, CITY, STATE, ZIP CODE)

For the purpose of _____

- The designated information MAY MAY NOT be transmitted by fax.
The designated information MAY MAY NOT be discussed by phone.
The designated information MAY MAY NOT be transmitted by email.

This request and authorization to release information is based on my understanding of the content of my records, the use of the information once it is released, and my understanding that the source providing the information cannot be responsible for the protection of my privacy once the information is conveyed. I release the source of information from all liability arising from the release. I understand that the recipient of the requested information is prohibited by federal law from making any further disclosure of it without my specific written permission. This consent is subject to revocation at any time except to the extent that the party instructed to make the disclosure has already taken action in reliance on it. If not previously revoked, this consent will terminate on _____.

(CLIENT/SUBJECT) DATE _____

(WITNESS) DATE _____

HIPPA INFORMATION STORAGE

- It's important to note that there is no such thing as compliant software or devices. Only Covered Entities and Business Associates can be compliant. They do so by following all of the requirements of HIPAA and HITECH, which are extensive when it comes to technology.

There are multiple pieces to establishing and maintaining compliance. With technology, you must establish administrative, technical, and physical safeguards that follow HIPAA/HITECH requirements. The short summary is that:

HIPPA INFORMATION STORAGE

- Administrative safeguards refer to doing a risk assessment/analysis and establishing policies and procedures regarding the creation, storage and transfer of PHI and ePHI (electronic PHI) (Policies can address who has passwords/access to PHI and much more)
- Technical safeguards mean you use technical means to secure the data (for example, encrypting the entire flash drive)
- Physical safeguards mean you use physical means to protect the data. (for example, keeping the flash drive in a secure container when not in use and restricting who has access).

HIPPA INFORMATION STORAGE

- There's a lot more to it. For example, while full drive encryption might not be your only possibility for maintaining compliance, there are additional advantages to doing so. The primary one being exemption from the Breach Notification rule.
- These are the things you/your organization must have in place to be compliant. Many people make the mistake of thinking they simply need to "purchase compliant solutions" and they are all set.

Client Relationships

- IV. RESPONSIBILITY TO SCHOOLS, FAMILIES, COMMUNITIES, THE PROFESSION, AND SOCIETY
- School psychologists promote healthy school, family, and community environments. They assume a proactive role in identifying social injustices that affect children and schools and strive to reform systems-level patterns of injustice. They maintain the public trust in school psychologists by respecting law and encouraging ethical conduct. School psychologists advance professional excellence by mentoring less experienced practitioners and contributing to the school psychology knowledge base.

Client Relationships

- **10.01 Informed Consent to Therapy**

(a) When obtaining informed consent to therapy psychologists inform clients/patients as early as is feasible in the therapeutic relationship about the nature and anticipated course of therapy, fees, involvement of third parties, and limits of confidentiality and provide sufficient opportunity for the client/patient to ask questions and receive answers.

- APA: [10.05 Sexual Intimacies With Current Therapy Clients/Patients](#)
- [10.06 Sexual Intimacies With Relatives or Significant Others of Current Therapy Clients/Patients](#)
- [10.07 Therapy With Former Sexual Partners](#)
- [10.08 Sexual Intimacies With Former Therapy Clients/Patients](#)

Client Relationships

- Principle IV.3.
Maintaining Public Trust
by Self-Monitoring and
Peer Monitoring
 - School psychologists
accept responsibility to
monitor their own conduct
and the conduct of other
school psychologists to
ensure it conforms to
ethical standards.
- Standard I.1.5
 - School psychologists
respect the wishes of
parents who object to
school psychological
services and attempt
to guide parents to
alternative resources.

- What about a scenario where a therapist-client relationship ends because the client turns age 18 years (when authorized services end)? The person who served the individual as therapist considers offering the individual residence in the person's home until the individual graduates from high school (for approximately one school year). The intended purpose of the offer is to provide a safe place in which the individual can reside until college acceptance. The therapy occurred in private practice with a third-party payer and the therapist had no contractual relationship with the school system where the individual is enrolled. Are there any ethical breaches for this consideration when the therapist-client relationship has been discontinued?

Client Relationships

- **3.12 Interruption of Psychological Services**
Unless otherwise covered by contract, psychologists make reasonable efforts to plan for facilitating services in the event that psychological services are interrupted by factors such as the psychologist's illness, death, unavailability, relocation, or retirement or by the client's/patient's relocation or financial limitations.

- **10.09 Interruption of Therapy**
When entering into employment or contractual relationships, psychologists make reasonable efforts to provide for orderly and appropriate resolution of responsibility for client/patient care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the client/patient. (See also Standard [3.12, Interruption of Psychological Services.](#))

Client Relationships

- **10.10 Terminating Therapy**
 - (a) Psychologists terminate therapy when it becomes reasonably clear that the client/patient no longer needs the service, is not likely to benefit, or is being harmed by continued service.
 - (b) Psychologists may terminate therapy when threatened or otherwise endangered by the client/patient or another person with whom the client/patient has a relationship.
 - (c) Except where precluded by the actions of clients/patients or third-party payors, prior to termination psychologists provide pretermination counseling and suggest alternative service providers as appropriate.

Ethical Decision Making

- A male therapist was treating a female who had been diagnosed with Borderline Personality Disorder and had a history of suicidal gestures. She had already sexually propositioned the therapist several times when he told her he was going on vacation for two weeks to England. She refused his offer of contact with a colleague while he would be away, so he gave her his cell phone number.

Ethical Decision Making

- She called him 30 times during his two week vacation. After he returned, she began calling his home number and cell number in the evening while he was at home, often several times a day. After six months of this, he consulted another therapist who was a former supervisor. He was advised to terminate therapy.

Ethical Decision Making

- After struggling with the decision to terminate for a couple of weeks, he told the client that he had decided to terminate treatment with her, and he referred her to another therapist. She went home and committed suicide. The family sued the therapist for malpractice and won. Why?

Multiple Relationships

- At our high school we may refer students to an outside counselor for more therapeutic interventions and family support. This counselor is a Clinical Psychologist and meets with students in our school.
- Today in a meeting a parent made a comment about this psychologist being a friend with her son on Facebook. Her son sees this psychologist for counseling once a week. The psychologist sees what the student posts and discusses it with the student and his mother. I confirmed that this is true.
- So my question is what to do in this situation. I see it as a dual relationship, thus unethical. My thought is that I find a way to talk to the psychologist about this before considering reporting it to a board of any sort. Do others also see it as unethical? What do you suggest I do and how would I word this when speaking to the psychologist?

Kathy Secinaro
School Psychologist
NH

Multiple Relationship

- Before you assume that the situation is a dual relationship, talk to the psychologist and find out how s/he has framed and is using the Facebook interactions. If you don't have two-way consent to talk to the psychologist about this particular student, then you will need to get that consent or have a general discussion with the psychologist ("I've heard that you are friends on Facebook with some of our students that you see. How do you use that relationship?").

If the psychologist believes that the relationship is one thing, but you have heard from the student and parent that they believe it is something else, then the psychologist needs to know that. If this clarification does make it sound like a dual relationship, express your concerns to the psychologist and see if s/he will correct the situation.

Abby Royston NCSP
School Psychologist
Winward District Office
Honolulu HI

Multiple Relationship

- "Friend" on Facebook is not necessarily the same as friendship; really, it means level of access to a person's information. Therapists very frequently communicate with their clients outside of the therapy sessions via email or phone. People frequently share their journals with their therapists. Inviting a therapist to access a Facebook account could simply be a way to communicate important information that is difficult to approach verbally. It could be the equivalent of a school psychologist observing a student in the classroom or during recess rather than simply asking the student, parent or teacher what happens in those settings.

Abby Royston NCSP
School Psychologist
Winward District Office
Honolulu HI

Multiple Relationship

- Although my first reaction is to say that this is unethical, I think it would really depend on how the Facebook access is used. If it is strictly in a therapeutic manner, then there should not be a problem. It would be in the nature of *in situ* observations, essentially. Not sure about doing this without parental permission or at least knowledge as an ethical/legal matter, though.

Cynthia Timmons
School Psychologist
Alamance-Burlington Schools
Mebane NC

Multiple Relationship

- Yes, I agree that this does appear to be an unethical practice. You may want to start your discussion with him by stating he may see Facebook as a tool to use in his practice but the appearance is one of a dual relationship. Regardless of his response, you may need to report this to the state licensing board. Good luck, these are sticky issues.

Karen Edgell NCSP
Marion Co. Board of Education
Bridgeport WV

Multiple Relationship

- Having access to a student's facebook would allow a unique window in to the student's social interactions. I wonder if the psychologist has a "work" facebook account in order to not be sharing their own personal details with students? One other consideration would be in the case of a student being cyberbullied. Someone needs to be monitoring and notifying authorities when appropriate if a student reports this occurring. I discuss with the student and parent about the parent's role in monitoring their child's social media and help them negotiate healthy and appropriate boundaries for supporting and supervising their child.

Molly Harrison, NCSP, LEP
School Psychologist
Nevada County Superintendent of
Schools, Charter Cooperative
Nevada City CA

Multiple Relationship

- I attended one of the ethics workshops when NASP was in CA last year and I remember the 1st step being talking to the colleague. Based on the information you shared, the student and his mother are aware of the "friendship" on facebook. You stated that these posts are being discussed with both the parent and student. I would find out if the psychologist is acting as an observer or engaging as a "friend" with the student on Facebook. It sounds like it may be apart of the therapeutic relationship.

Tammie Fay NCSP
School Psychologist
Panama-Buena Vista Union
School District
Bakersfield CA

Social Media

- Bob is a School Psychologist who has been working with a 13 year old male student in a middle school. The student's mother made a friend request on facebook, and Bob accepted it thinking it would be an easy way to communicate with the student's parents and keep up with the student's family and social life. Last week, Bob went out one night celebrating his birthday. He had a few drinks with friends and posted some pictures from the bar on facebook. The next day he posted that he did not sleep well, was tired, and a little hung over. That day, at school, he gave the above student an IQ test. The mother asked the school to pay for an additional independent evaluation. What are the legal/ethical issues?

Multiple Relationships

- Standard III.4.9
- School psychologists who provide school-based services and also engage in the provision of private practice services (dual setting practitioners) recognize the potential for conflicts of interests between their two roles and take steps to avoid such conflicts. Dual setting practitioners:
 - are obligated to inform parents or other potential clients of any psychological and educational services available at no cost from the schools prior to offering such services for remuneration

Multiple Relationships

- may not offer or provide private practice services to a student of a school or special school program where the practitioner is currently assigned
- may not offer or provide private practice services to the parents or family members of a student eligible to attend a school or special school program where the practitioner is currently assigned
- may not offer or provide an independent evaluation as defined in special education law for a student who attends a local or cooperative school district where the practitioner is employed
- do not use tests, materials, equipment, facilities, secretarial assistance, or other services belonging to the public sector employer unless approved in advance by the employer
- conduct all private practice outside of the hours of contracted public employment
- hold appropriate credentials for practice in both the public and private sectors

SUD

- Seeming Unimportant Decisions
- Omission/Commission
- I decided to omit a seeming unimportant piece of information from [The Presenter](#) section of this presentation:
- I am a a Licensed Insurance Agent
- Insurance Producer for Life and Accident & Health

SUD

- If a client did not have health insurance coverage which would reimburse for my clinical services, I could sell him a policy which would cover his treatment!
- Ethical or Unethical?
- Why?

SUD

- If a client did not have health insurance coverage which would reimburse for my clinical services, I could sell him a policy which would cover his treatment!
- Ethical or Unethical?
- Why?
- What is the conflict of interest?

Decision Making

- Mike is a Licensed Psychologist in San Antonio Texas. He has been providing treatment to an elderly female client who has been diagnosed with cancer. His client has moved to Nashville, Tennessee to live with her daughter, and get treatment from Vanderbilt Hospital. Mike has continued to work with her via Skype. What are the legal/ethical issues?

Confidentiality

- Standard 6: Record Keeping and Fees
 - (e) If the recipient of services does not pay for services as agreed, and if psychologists intend to use collection agencies or legal measures to collect the fees, psychologists first inform the person that such measures will be taken and provide that person an opportunity to make prompt payment.
- **4.05 Disclosures**
 - (a) Psychologists may disclose confidential information with the appropriate consent of the organizational client, the individual client/patient, or another legally authorized person on behalf of the client/patient unless prohibited by law.
 - (b) Psychologists disclose confidential information without the consent of the individual only as mandated by law, or where permitted by law for a valid purpose such as to (1) provide needed professional services; (2) obtain appropriate professional consultations; (3) protect the client/patient, psychologist, or others from harm; or (4) obtain payment for services from a client/patient, in which instance disclosure is limited to the minimum that is necessary to achieve the purpose. (See also [Standard 6.04e, Fees and Financial Arrangements.](#))

Confidentiality

- **3.10 Informed Consent**

(c) When psychological services are court ordered or otherwise mandated, psychologists inform the individual of the nature of the anticipated services, including whether the services are court ordered or mandated and any limits of confidentiality, before proceeding.

- **4.02 Discussing the Limits of Confidentiality**

(a) Psychologists discuss with persons (including, to the extent feasible, persons who are legally incapable of giving informed consent and their legal representatives) and organizations with whom they establish a scientific or professional relationship (1) the relevant limits of confidentiality and (2) the foreseeable uses of the information generated through their psychological activities. (See also Standard [3.10, Informed Consent](#).)

- (b) Unless it is not feasible or is contraindicated, the discussion of confidentiality occurs at the outset of the relationship and thereafter as new circumstances may warrant.
- (c) Psychologists who offer services, products, or information via electronic transmission inform clients/patients of the risks to privacy and limits of confidentiality.

Confidentiality

- Standard I.2.5
- School psychologists discuss and/or release confidential information only for professional purposes and only with persons who have a legitimate need to know. They do so within the strict boundaries of relevant privacy statutes.

- Standard I.2.3
- School psychologists inform students and other clients of the boundaries of confidentiality at the outset of establishing a professional relationship. They seek a shared understanding with clients regarding the types of information that will and will not be shared with third parties. However, if a child or adolescent is in immediate need of assistance, it is permissible to delay the discussion of confidentiality until the immediate crisis is resolved. School psychologists recognize that it may be necessary to discuss confidentiality at multiple points in a professional relationship to ensure client understanding and agreement regarding how sensitive disclosures will be handled.

Confidentiality

- Standard I.1.3
- School psychologists ensure that an individual providing consent for school psychological services is fully informed about the nature and scope of services offered, assessment/intervention goals and procedures, any foreseeable risks, the cost of services to the parent or student (if any), and the benefits that reasonably can be expected. The explanation includes discussion of the limits of confidentiality, who will receive information about assessment or intervention outcomes, and the possible consequences of the assessment/intervention services being offered. Available alternative services are identified, if appropriate. This explanation takes into account language and cultural differences, cognitive capabilities, developmental level, age, and other relevant factors so that it may be understood by the individual providing consent. School psychologists appropriately document written or oral consent. Any service provision by interns, practicum students, or other trainees is explained and agreed to in advance, and the identity and responsibilities of the supervising school psychologist are explained prior to the provision of services.

Confidentiality

- **4.07 Use of Confidential Information for Didactic or Other Purposes**

Psychologists do not disclose in their writings, lectures, or other public media, confidential, personally identifiable information concerning their clients/patients, students, research participants, organizational clients, or other recipients of their services that they obtained during the course of their work, unless (1) they take reasonable steps to disguise the person or organization, (2) the person or organization has consented in writing, or (3) there is legal authorization for doing so.

- [APA: 4.07 Use of Confidential Information for Didactic or Other Purposes](#)
- [8.02 Informed Consent to Research](#)
- [8.03 Informed Consent for Recording Voices and Images in Research](#)

Confidentiality



- **8.03 Informed Consent for Recording Voices and Images in Research**
Psychologists obtain informed consent from research participants prior to recording their voices or images for data collection unless (1) the research consists solely of naturalistic observations in public places, and it is not anticipated that the recording will be used in a manner that could cause personal identification or harm, or (2) the research design includes deception, and consent for the use of the recording is obtained during debriefing

Confidentiality

- **1.03, Conflicts Between Ethics and Organizational Demands**
- If the demands of an organization with which psychologists are affiliated or for whom they are working are in conflict with this Ethics Code, psychologists clarify the nature of the conflict, make known their commitment to the Ethics Code, and take reasonable steps to resolve the conflict consistent with the General Principles and Ethical Standards of the Ethics Code. Under no circumstances may this standard be used to justify or defend violating human rights.

- **1.02 Conflicts Between Ethics and Law, Regulations, or Other Governing Legal Authority**
- If psychologists' ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists make known their commitment to the Ethics Code and take steps to resolve the conflict. Under no circumstances may this standard be used to justify or defend violation human rights.
- **Underlined added in 2010**

Confidentiality

- What are your thoughts and feelings about a Duty to Warn and Protect?
- A Duty to Report?
- What is the difference between confidential information and privileged information?

Decision Making

I attended a meeting last week where ethical dilemmas [were] discussed and an incidence was used as an example. But I am still a bit confused even though there was an extensive discussion on this. I still wonder what I would do if I encountered such [a] situation.

Chidi Ndubueze
MHR, LPC, LADC/MH
Oklahoma City, OK

- A couple brought a 7 year old boy to a counselor and reported that about a year ago, the father caught his 17 year old son who has **AUTISM SPECTRUM**, and the seven year son (then six years old), in a bedroom with the seven year old's underwear down, and the seventeen year old hiding under a table without any underwear on.

Decision Making

- The little boy had told their dad that his big brother was begging to insert his "pee-pee" in the little one's "butt" but the little one was still saying no when dad walked in on them. Parents took both to the seventeen year old's psychologist and it was determined that nothing happened beyond begging and refusing. The psychologist did not report the incidence to child protective services, one of the reasons being that the seventeen year old was mentally ill, and another, that he did not touch his little brother. However the parents removed the seventeen year old from the home and he is not allowed into the house without the parents' supervision and he is not allowed near the seven year old at all.

Decision Making

- A year later, the parents took the seven year old to the counselor, because they had seen the little boy touching himself in his bedroom and they wouldn't want him to do that outside, or touch other kids at school. The counselor was caught in the ethical dilemma: Should he report the incidence that happened with the seventeen year old brother to child protective services, or not? What would child protective services do in this case, with the seventeen year old out of the home, and the little boy in no danger, and there is no possibility of such reoccurring? Is there a negligence in the part of the psychologist? If yes, what? Would the parents be held accountable in any way for what happened that day?

Confidentiality

- Standard I.2.4
- School psychologists respect the confidentiality of information obtained during their professional work. Information is not revealed to third parties without the agreement of a minor child's parent or legal guardian (or an adult student), except in those situations in which failure to release information would result in danger to the student or others, or where otherwise required by law. Whenever feasible, student assent is obtained prior to disclosure of his or her confidences to third parties, including disclosures to the student's parents.
- **4.06 Consultations**
When consulting with colleagues, (1) psychologists do not disclose confidential information that reasonably could lead to the identification of a client/patient, research participant, or other person or organization with whom they have a confidential relationship unless they have obtained the prior consent of the person or organization or the disclosure cannot be avoided, and (2) they disclose information only to the extent necessary to achieve the purposes of the consultation. (See also Standard [4.01, Maintaining Confidentiality](#).)

Confidentiality

- You are the Psychologist for a residential treatment school for adolescent males. A serious incident has occurred in which an adolescent physically assaulted a female staff member, giving her a black eye. She filed Assault charges against the resident.

Confidentiality

- When facility staff are getting ready to transport the resident to court, he insists that he wants to take along another resident to testify on his behalf. The staff member who filed the charges has subpoenaed a recently discharged resident who volunteered to testify for her, but the accused resident's court appointed attorney has not subpoenaed anyone.

Confidentiality

- Should the other resident be allowed to go to court to testify?
- What are the confidentiality issues?
- Is age of consent a factor in the decision?



Confidentiality

- Subject: Breaking confidentiality for drug use

I have been informed by our school social worker that some new law restricts our ability to share information regarding drug use. So if a student informs me in counseling that they are using, even abusing, drugs, I cannot break confidentiality without their written permission.

Is this true?

Kathy Secinaro
School Psychologist
Prospect Mountain High School
Alton NH

Confidentiality

- This federal law has been on the books since 1992. See Center for Substance Abuse Treatment. Substance Abuse Treatment and Domestic Violence. Rockville (MD): Substance Abuse and Mental Health Services Administration (US); 1997. (Treatment Improvement Protocol (TIP) Series, No. 25.) Appendix B-Federal Confidentiality Regulations. <http://www.ncbi.nlm.nih.gov/books/NBK64435/>

Abby Royston, Ph.D., NCSP
Lead Psychologist
Windward District Office
Honolulu HI

Confidentiality

- The whole book is available online. Here is a brief excerpt:
- "Federal law (United States Code, Title 42, @ @290dd-2 [1992]) and the Federal regulations that implement it -- Title 42, Part 2, of the *Code of Federal Regulations* (42 C.F.R. Part 2) -- guarantee the strict confidentiality of information about all persons receiving substance abuse prevention and treatment services. They are designed to protect privacy rights and thereby attract individuals into treatment. The regulations are more restrictive of communications than are those governing the doctor-client relationship or the attorney-client privilege....
- "Any program that specializes, in whole or in part, in providing treatment, counseling and assessment, and referral services, or a combination thereof, for clients with alcohol or other drug problems must comply with the Federal confidentiality regulations (@2.12(e)). It is the kind of services provided, not the label, that determines whether a program must comply with the Federal law....

Abby Royston, Ph.D., NCSP
Lead Psychologist
Windward District Office
Honolulu HI

Confidentiality

- "The Federal confidentiality law and regulations protect any information about a client if the client has applied for or received any alcohol- or drug abuse-related services-including assessment, diagnosis, detoxification, counseling, group counseling, treatment, and referral for treatment -- from a covered program. The restrictions on disclosure apply to any information that would identify the client as a substance abuser, either directly or by implication. The rule applies from the moment the client makes an appointment. It applies to clients who are civilly or involuntarily committed, minors, clients who are mandated into treatment by the criminal justice system, and former clients."

Abby Royston, Ph.D., NCSP
Lead Psychologist
Windward District Office
Honolulu HI

Confidentiality

- This discussion comes at a very opportune time! As the instructor for our program's course on ethics and legal issues, I am currently preparing for next week's class on issues related to school-based counseling. As I'm sure many other programs do, we use Jacob, Decker & Hartshorne's (2011) *Ethics and Law for School Psychologists (6th Ed)*. The following is taken straight from the reading I have assigned for next week:

"...the laws regarding disclosure of a student's substance abuse to his or her parents are complicated. If a minor student discloses risky substance abuse to a school-based psychologist within the context of a professional relationship, the school psychologist may disclose this information to the child's parent and work with the parent in locating treatment. However, with the exception of a medical emergency, federal law provides confidentiality protection to students, *including minors*, who specifically seek drug and alcohol evaluation and treatment (part of the Public Health Service Act codified at 42 U.S.C. 290dd; 42 C.F.R. Part 2)." (p. 179)

Meaghan Guiney, Ph.D., NCSP
Clinical Assistant Professor
Fairleigh Dickinson University
Teaneck, NJ

Confidentiality

- Though there is room to debate what constitutes "risky" substance abuse, it does seem that unless a student comes to the school psychologist specifically to seek substance abuse treatment we would be fulfilling our legal and ethical obligations to protect our minor students' health and safety by informing parents about high-risk behavior.

Meaghan Guiney, Ph.D., NCSP
Clinical Assistant Professor
Fairleigh Dickinson University
Teaneck, NJ

Professional Relationships

- **3.07 Third-Party Requests for Services**

When psychologists agree to provide services to a person or entity at the request of a third party, psychologists attempt to clarify at the outset of the service the nature of the relationship with all individuals or organizations involved. This clarification includes the role of the psychologist (e.g., therapist, consultant, diagnostician, or expert witness), an identification of who is the client, the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality.

- **3.09 Cooperation with Other Professionals**
When indicated and professionally appropriate, psychologists cooperate with other professionals in order to serve their clients/patients effectively and appropriately. (See also Standard [4.05, Disclosures.](#))

Professional Relationships

- Standard IV.1.1
- To provide effective services and systems consultation, school psychologists are knowledgeable about the organization, philosophy, goals, objectives, culture, and methodologies of the settings in which they provide services. In addition, school psychologists develop partnerships and networks with community service providers and agencies to provide seamless services to children and families.
- Principle IV.1. Promoting Healthy School, Family, and Community Environments
- School psychologists use their expertise in psychology and education to promote school, family, and community environments that are safe and healthy for children.

Professional Relationships

- **3.03 Other Harassment**

Psychologists do not knowingly engage in behavior that is harassing or demeaning to persons with whom they interact in their work based on factors such as those persons' age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, or socioeconomic status.



World Wide Web



5.04 Media Presentations

When psychologists provide public advice or comment via print, Internet, or other electronic transmission, they take precautions to ensure that statements (1) are based on their professional knowledge, training, or experience in accord with appropriate psychological literature and practice; (2) are otherwise consistent with this Ethics Code; and (3) do not indicate that a professional relationship has been established with the recipient. (See also [Standard 2.04, Bases for Scientific and Professional Judgments.](#))

World Wide Web



- **ACA: A.12.h. Sites on the World Wide Web**
- **Counselors maintaining sites on the World Wide Web (the Internet) do the following:**
 - **1. Regularly check that electronic links are working and professionally appropriate.**
 - **2. Establish ways clients can contact the counselor in case of technology failure.**
 - **3. Provide electronic links to relevant state licensure and professional certification boards to protect consumer rights and facilitate addressing ethical concerns.**

World Wide Web

- **4. Establish a method for verifying client identity.**
- **5. Obtain the written consent of the legal guardian or other authorized legal representative prior to rendering services in the event the client is a minor child, an adult who is legally incompetent, or an adult incapable of giving informed consent.**
- **6. Strive to provide a site that is accessible to persons with disabilities.**

- **7. Strive to provide translation capabilities for clients who have a different primary language while also addressing the imperfect nature of such translations.**
- **8. Assist clients in determining the validity and reliability of information found on the World Wide Web and other technology applications.**

Public Information and Advertising

- Refrain from use of name or credential that could mislead referral sources or the public
- Indicate limitations in practice, including supervision
- Do not represent affiliation as sponsorship or certification by an organization or agency

Who's a real Doctor?

- **Public Chapter 75-** Provides that each licensed psychologist shall conspicuously display an original or a copy of his/her license or certification displayed in the office or place of practice and shall conspicuously display a sign in intelligible lettering and not less than one inch (1”) in height, containing the name of such licensee immediately followed by the recognized abbreviation indicating the professional degree, if any held by such licensee, and containing immediately below the licensee’s name, in equal size lettering, the following words: “Psychologist” or “doctor of psychology” for practitioners of psychology. A licensee may substitute a specialist designation for these words for any specialized field that is recognized or approved by the appropriate board licensing that profession. The licensee shall also affirmatively communicate the licensee’s specific licensure through one (1) of the following methods: (1) licensee shall wear a photo identification name tag during all patient encounters that contains a recent photograph of the licensee with the licensee’s full name and license type; or (2) licensee shall communicate to a patient the licensee’s full name and license type in writing at the patient’s initial office visit after January 1, 2012. In communicating the license type, the licensee shall use one of more of these words: “Psychologist” or “doctor of psychology” for practitioners of psychology.

Who's a real Doctor?

- **Public Chapter 75-** All licensees are required to comply with these requirements at each practice setting. These requirements do not apply to licensees working in licensed health care facilities or to licensees who are not working in patient care settings who have no direct patient care interactions. A licensee who provides information regarding healthcare services on the internet that is directly controlled or administered by the licensee or licensee's agent, shall prominently display on the internet the licensee's full name and type of license using one (1) or more of the following words: "Psychologist" or "doctor of psychology" for practitioners of psychology. A licensee who violates the provisions of this law may be subject to disciplinary action by the Board of Examiners in Psychology. The provisions of this law shall become effective January 1, 2012.
- (It was the opinion of the BOE legal consultant that this law applies to Psychological Examiners, Senior Psychological Examiners, and Certified Psychological Assistants.)

Who's a real Doctor?

- ON MARCH 21, 2011, THE SENATE ADOPTED AMENDMENT #1 AND PASSED SENATE BILL 505, AS AMENDED.

AMENDMENT #1 adds an exemption to the signage and certificate display requirements for health care workers working in a developmental center, treatment resource, group residence, boarding home, sheltered workshop, activity center, rehabilitation center, hospital, community mental health center, counseling center, clinic, halfway house or any other entity that provides a mental health or developmental disabilities service or an alcohol and drug prevention and treatment facility.

This amendment clarifies that only the licensing board that licensed a practitioner is authorized to seek to injunctive or other relief against that practitioner for a violation of this bill.

Who's a real Doctor?

- (1) "Chiropractor," "chiropractic physician" or "doctor of chiropractic" for practitioners of chiropractic;
- (2) "Dentist," "doctor of dental surgery" or "doctor of dental medicine" for practitioners of dentistry;
- (3) "Medical doctor," "physician," "medical doctor and surgeon," "medicine" or "surgeon", as applicable, for practitioners of medicine and surgery;
- (4) "Optometrist," "doctor of optometry," or "optometric physician" for practitioners of optometry;
- (5) "Osteopathic physician," "osteopathic physician and surgeon," "doctor of osteopathic medicine," or "doctor of osteopathy" for practitioners of osteopathy;
- (6) "Podiatrist," "podiatric physician," "doctor of podiatry," "doctor of podiatric medicine" or "doctor of podiatric medicine and surgery" for practitioners of podiatry;
- (7) "Advanced practice nurse," "nurse practitioner," "nurse anesthetist," "nurse midwife" or "clinical nurse specialist," as applicable, for those practicing advanced practice nursing;
- (8) "Physician assistant" or "orthopedic physician assistant," as applicable, for those licensed as a physician assistant;
- (9) "Psychologist" or "doctor of psychology" for practitioners of psychology;
- (10) "Acupuncturist" for practitioners of acupuncture; and
- (11) "Certified professional midwife" for those practitioners of midwifery.

I am not a Physician!

- I am a Health Service Provider;
- I do hold a Doctoral Degree in Psychology;
- I am licensed at the Doctoral level by the Tennessee Department of Education with an endorsement as a School Psychologist;
- I do sing and play country music, but
- I am not a country music star!

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CMA Fest 2011



DURANGO
HEAD WEST

©catchthemoment2011

Mark Wayne Sigler, Ph.D., NCSP

Senior Psychological Examiner

Professional Counselor

School Psychologist

161 Indian Creek Road

Hohenwald, TN 38462

Board Certified Clinical Psychotherapist

Nationally Certified in School and Clinical Psychology

Professional School Service Personnel License

Mental Health Service Provider License

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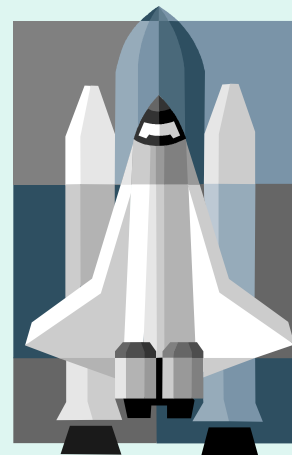


- Anchoring: A high price makes a lower price seem reasonable, even if it isn't. A ridiculous idea makes a poor one look good.
- The Endowment Effect: Loss Aversion – Simply having something increases its value. Our fear of losing makes us pass up winning moves.
- We can't tell how long that long shot really is: Our brains aren't wired to grasp the insignificance of very small odds.

- We want it now, not tomorrow: Our guts tend to be impatient. “Economists call that hyperbolic discounting, and it explains everything from drug addiction to the slow response to global warming.”
- The Paradox of choice: Too many choices lead to bad decisions – or no decisions. “Faced with too many choices, we develop habits.

Risk Analysis in Decision Making

- We do not separate risk and emotion
- Catastrophes more feared than likely events
- We underestimate risks that do not produce consequences immediately



(Szalavitz 2008)

Risk Management



- Risks we believe we can control are preferred
- Control for one risk and we substitute another
- We ignore our gut feelings when we think it out
- We cannot separate our values from risk taking

(Szalavitz 2008)

Mark's Top 10 Reasons For Not Making Poor Decisions

- 10. Might as well face it, I'm addicted to . .
- 9. Well, I didn't know it was illegal
- 8. Nobody told me it wasn't safe
- 7. It's **so hard** to do the right thing
- 6. Who put it on U-Tube?
- 5. What do you mean, malpractice defense?

TOP 10

- 4. Oh come on, What's the harm?
- 3. Well, **now** I feel lousy.
- 2. I know, the needs of the many outweigh the needs of the one
- **And the #1 reason:**
- *Please, don't tell my **mother!***

(Mick, 1990)

Transference Issues

- Healthy transference
- Counter transference
- Vicarious Trauma
- Boundary violations
- Feelings of attraction
- Seductive behavior
- Sexual dynamics

Professional Organizations

- Paul Fornell, ACA's Director of Ethics and Professional Standards
- Available for confidential, free consultations on ethical situations you are facing
- Will assist with consultations on professional standards issues

Professional Organizations

- “[Fornell] emphasizes that ACA members should not view the consultation services only as a last-ditch option. There is no shame, Fornell says, in counselors admitting that they don’t have all the answers and seeking help as part of regular practice. The real danger comes when counselors sequester themselves and rely solely on their own perspective, he says.”

Professional Organizations

- Fornell advises that if you are questioning your decision making as to how to handle a situation you should seek professional consultation.
- He says to consider this question: “What is your next step going to be?”
- “Ethics should flow naturally from your education, your training and your professional experience.”

Professional Organizations

- “If you know what your values are and apply those values consistently, that’s 90 percent of it.”
- “I also believe that continuing education and being a member (of your professional associations) should be part of your everyday ethics.”
- Drop the “I can do it all on my own” superhero facade.

Professional Organizations

- “Half of the (ethics) calls I receive would never be made if counselors were required to have lifelong consultation or a lifelong mentor,” Fornell says.
- “Professional competence really comes from reminding ourselves every day, ‘I don’t know everything.’”

Psychology Board Action

- **In a disciplinary case that came before the Board of Examiners in Psychology, the following requirements were required of a licensee:**
- **Obtain clinical supervision for a specified period of time;**
- **Take a specified number of training hours on Ethics and Jurisprudence beyond the 3 required; and**
- **Join a professional psychological organization.**

The Presenter

- PROFESSIONAL ORGANIZATIONS:
- National Association of School Psychologists
(Tennessee Delegate, NASP State Credentialing Resource Specialist)
- North American Association of Masters in Psychology
- American Counseling Association
- National Education Association
- Tennessee Association of School Psychologists
(Past President, Past Chair - Professional Development Committee, Chair – Ethics Committee)
- Tennessee Psychological Association
(Past President of TAPE)
- Tennessee Education Association
- Tennessee Licensed Professional Counselors Association

Summary

- **With education and repetition we can retrain our instincts**
- Continuing education on ethics and jurisprudence
- Professional Consultation/Supervision
- Professional Membership/Affiliation
- Risk awareness and decision making skills

Ethics References

- American Counseling Association, 2005, Code of Ethics
- American Psychological Association, 2002, Ethical Principles of Psychologists and Code of Conduct (with 2010 Amendments)
- National Association of School Psychologists Principles for Professional Ethics (2010)

Other References

- Kestenbaum, A (2011, May/June). Why We Fall For This. AARP The Magazine, pp. 52-55, 82.
- Mick, C. (2009, April). Assisting the Supervisee: The application of narrative ideas and practices in understanding the parallel process of vicarious trauma. Session presented at the third annual conference of the Tennessee Licensed Professional Counselors Association. Nashville.

Other References

- Reinhardt, R. www.tameyourpractice.com, Rob Reinhardt, LPC, PA, Fuquay Varina NC, <http://www.tameyourpractice.com/blog/think-youre-too-small-hipaa-fine>.
- Rollins, J. (2009, April). Serving up ethics advice with a smile. Counseling Today, pp. 46-48.
- Szalavitz, M. (2008, January/February). 10 Ways we get the odds wrong. Psychology Today, pp. 96-102.